

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MARVEL CHARACTERS, INC.,

Plaintiff,

v.

PATRICK S. DITKO, in his capacity as  
Administrator of the Estate of Stephen J.  
Ditko,

Defendant.

Case No.: 1:21-cv-07957-LAK

Hon. Lewis A. Kaplan

**JOINT STIPULATION REGARDING  
MODIFICATION OF PRETRIAL DATE**

PATRICK S. DITKO, in his capacity as  
Administrator of the Estate of Stephen J.  
Ditko,

Counterclaimant,

v.

MARVEL CHARACTERS, INC. and DOES  
1-10, inclusive,

Counterclaim-Defendants.

JOINT STIPULATION

**STIPULATION**

Plaintiff and Counterclaim-Defendant Marvel Characters, Inc. (“Marvel”) and Defendant and Counterclaimant Patrick S. Ditko (“Ditko”) (collectively, the “Parties”) stipulate as follows:

**WHEREAS**, on October 16, 2023, the Court entered its Memo Endorsement (Dkt. 116) continuing the deadline to submit the joint pretrial order to November 27, 2023;

**WHEREAS**, Ditko’s counsel, Mr. Toberoff, has informed the parties that his wife has close family in Israel, that his family is in turmoil, and that Mr. and Mrs. Toberoff may need to make immediate travel there to attend to them given the dire ongoing Israel-Hamas conflict;

**WHEREAS**, such unexpected and urgent travel will severely limit Mr. Toberoff’s ability to work on this case, including submission of the joint pretrial order;

**WHEREAS**, in light of Mr. Toberoff’s likely absence, Defendant-Counterclaimant Ditko has asked Marvel to agree to an extension until December 22, 2023 to submit the joint pretrial order;

**WHEREAS**, Marvel has advised Ditko that it does not oppose the requested extension subject to approval of the Court;

**WHEREAS**, these modifications will not meaningfully delay the overall progress of the case.

Based on the foregoing, **IT IS HEREBY STIPULATED** by and between the Parties, through their respective counsel of record, subject to the Court’s approval, that:

1. The deadline to file the joint pretrial order shall be continued to December 22, 2023.

Date: November 10, 2023

**TOBEROFF & ASSOCIATES, P.C.**

By: /s/ Marc Toberoff  
Marc Toberoff

Marc Toberoff  
*mtoberoff@toberoffandassociates.com*

23823 Malibu Road, Suite 50-363  
Malibu, CA 90265  
Telephone: (310) 246-3333

*Attorneys for Patrick S. Ditko*

Date: November 10, 2023

**O'MELVENY & MYERS LLP**

By: /s/ Daniel M. Petrocelli  
Daniel M. Petrocelli

Daniel M. Petrocelli\*  
dpetrocelli@omm.com  
Molly M. Lens  
mlens@omm.com  
Matthew Kaiser\*  
mkaiser@omm.com  
1999 Avenue of the Stars, 8th Floor  
Los Angeles, California 90067  
Telephone: (310) 553-6700  
Facsimile: (310) 246-6779

\* Admitted pro hac vice

*Attorneys for Marvel Characters, Inc.*

**SO ORDERED:**

\_\_\_\_\_  
Hon. Lewis A. Kaplan  
United States District Judge

DATE: \_\_\_\_\_